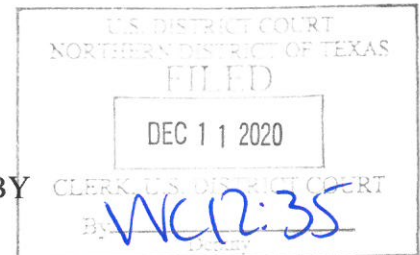


PETITION FOR WRIT OF HABEAS CORPUS: 28 USC §2254 (Rev. 9/10)
ADOPTED BY ALL FEDERAL COURTS IN TEXAS

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



PETITION FOR A WRIT OF HABEAS CORPUS BY
A PERSON IN STATE CUSTODY

CLERK U.S. DISTRICT COURT
BY WNC12:35

DERRICK M. WEBSTER
PETITIONER
(Full name of Petitioner)

Michael Unit
CURRENT PLACE OF CONFINEMENT

vs.

TDCJ Director

1155256

PRISONER ID NUMBER

Boby Lumpkin
RESPONDENT

4-20CV-1322P

CASE NUMBER

(Name of TDCJ Director, Warden, Jailor, or
authorized person having custody of Petitioner)

(Supplied by the District Court Clerk)

INSTRUCTIONS - READ CAREFULLY

1. The petition must be legibly handwritten or typewritten and signed and dated by the petitioner, under penalty of perjury. Any false statement of an important fact may lead to prosecution for perjury. Answer all questions in the proper space on the form.
2. Additional pages are not allowed except in answer to questions 11 and 20. Do not cite legal authorities. Any additional arguments or facts you want to present must be in a separate memorandum. The petition, including attachments, may not exceed 20 pages.
3. Receipt of the \$5.00 filing fee or a grant of permission to proceed *in forma pauperis* must occur before the court will consider your petition.
4. If you do not have the necessary filing fee, you may ask permission to proceed *in forma pauperis*. To proceed *in forma pauperis*, (1) you must sign the declaration provided with this petition to show that you cannot prepay the fees and costs, and (2) if you are confined in TDCJ-CID, you must send in a certified *In Forma Pauperis* Data Sheet form from the institution in which you are confined. If you are in an institution other than TDCJ-CID, you must send in a certificate completed by an authorized officer at your institution certifying the amount of money you have on deposit at that institution. If you have access or have had access to enough funds to pay the filing fee, then you must pay the filing fee.

5. Only judgments entered by one court may be challenged in a single petition. A separate petition must be filed to challenge a judgment entered by a different state court.
6. Include all of your grounds for relief and all of the facts that support each ground for relief in this petition.
7. Mail the completed petition and one copy to the U. S. District Clerk. The "Venue List" in your unit law library lists all of the federal courts in Texas, their divisions, and the addresses for the clerk's offices. The proper court will be the federal court in the division and district in which you were convicted (for example, a Dallas County conviction is in the Northern District of Texas, Dallas Division) or where you are now in custody (for example, the Huntsville units are in the Southern District of Texas, Houston Division).
8. Failure to notify the court of your change of address could result in the dismissal of your case.

PETITION

What are you challenging? (Check all that apply)

- ☒ A judgment of conviction or sentence, (Answer Questions 1-4, 5-12 & 20-25)
probation or deferred-adjudication probation.
- ☐ A parole revocation proceeding. (Answer Questions 1-4, 13-14 & 20-25)
- ☐ A disciplinary proceeding. (Answer Questions 1-4, 15-19 & 20-25)
- ☐ Other: _____ (Answer Questions 1-4, 10-11 & 20-25)

All petitioners must answer questions 1-4:

Note: In answering questions 1-4, you must give information about the conviction for the sentence you are presently serving, even if you are challenging a prison disciplinary action. (Note: If you are challenging a prison disciplinary action, do not answer questions 1-4 with information about the disciplinary case. Answer these questions about the conviction for the sentence you are presently serving.) Failure to follow this instruction may result in a delay in processing your case.

1. Name and location of the court (district and county) that entered the judgment of conviction and sentence that you are presently serving or that is under attack: 37th DISTRICT
COURT OF TARRANT COUNTY
2. Date of judgment of conviction: FEBRUARY 7, 2003
3. Length of sentence: SIXTY-FIVE (65) YEARS
4. Identify the docket numbers (if known) and all crimes of which you were convicted that you wish to challenge in this habeas action: 0866501B

5. What was your plea? (Check one) ☒ Not Guilty ☐ Guilty ☐ Nolo Contendere

6. Kind of trial: (Check one) ☒ Jury ☐ Judge Only

7. Did you testify at trial? ☒ Yes ☐ No

8. Did you appeal the judgment of conviction? ☒ Yes ☐ No

9. If you did appeal, in what appellate court did you file your direct appeal? 2ND COURT
OF APPEAL Cause Number (if known): 02-03-00051-CR

What was the result of your direct appeal (affirmed, modified or reversed)? AFFIRMED

What was the date of that decision? FEBRUARY 7, 2003

If you filed a petition for discretionary review after the decision of the court of appeals, answer the following:

Grounds raised: NA

Result: NA

Date of result: NA Cause Number (if known): NA

If you filed a petition for a writ of certiorari with the United States Supreme Court, answer the following:

Result: NA

Date of result: NA

10. Other than a direct appeal, have you filed any petitions, applications or motions from this judgment in any court, state or federal? This includes any state applications for a writ of habeas corpus that you may have filed. ☒ Yes ☐ No

11. If your answer to 10 is "Yes," give the following information:

Name of court: TARRANT COUNTY COURT HOUSE

Nature of proceeding: By trial

Cause number (if known): 3:13-CV-3867-B-BN

Grounds raised: INAFFACTIVE OF COUNSEL, FALS IM-PRISONMENT, HABITUAL OFFENDER SENTENCES DISPROPORTIONATE TO THE CRIME.
Date of final decision: _____

What was the decision? Dismissed

Name of court that issued the final decision: TARRANT COUNTY COURT HOUSE.

As to any second petition, application or motion, give the same information:

Name of court: Ft. Worth TARRANT County

Nature of proceeding: By ~~to~~ CORRESPONDENCE

Cause number (if known): 372 - W011751

Date (month, day and year) you filed the petition, application or motion as shown by a file-stamped date from the particular court:

MAY 18 2020

Grounds raised: INAFFACTIVE OF COUNSEL, FALS IM-PRISONMENT, mental IN COMPATENT, HABITUAL OFFENDER SENTENCE DISPROPORTIONATE TO THE CRIME.
Date of final decision: 9-2-20

What was the decision? Dismissed without WRITTEN ORDER.

Name of court that issued the final decision: CRIMINAL APPEALS OF TEXAS

If you have filed more than two petitions, applications or motions, please attach an additional sheet of paper and give the same information about each petition, application or motion.

12. Do you have any future sentence to serve after you ☒ finish serving the sentence you are attacking in this petition? ☒ Yes ☐ No

(a) If your answer is "Yes," give the name and location of the court that imposed the sentence to be served in the future: Wichita ~~State~~ COURT HOUSE
OF TEXAS

(b) Give the date and length of the sentence to be served in the future: 5 YEARS
SENTENCE

Parole Revocation:

13. Date and location of your parole revocation: _____

14. Have you filed any petitions, applications or motions in any state or federal court challenging your parole revocation? ☐ Yes ☐ No

If your answer is "Yes," complete Question 11 above regarding your parole revocation.

Disciplinary Proceedings:

15. For your original conviction, was there a finding that you used or exhibited a deadly weapon? ☐ Yes ☐ No

16. Are you eligible for release on mandatory supervision? ☐ Yes ☐ No

17. Name and location of the TDCJ Unit where you were found guilty of the disciplinary violation: _____

Disciplinary case number: _____

What was the nature of the disciplinary charge against you? _____

18. Date you were found guilty of the disciplinary violation: _____

Did you lose previously earned good-time days? ☐ Yes ☐ No

If your answer is "Yes," provide the exact number of previously earned good-time days that were forfeited by the disciplinary hearing officer as a result of your disciplinary hearing: _____

Identify all other punishment imposed, including the length of any punishment, if applicable, and any changes in custody status: _____

19. Did you appeal the finding of guilty through the prison or TDCJ grievance procedure? ☐ Yes ☐ No

If your answer to Question 19 is "Yes," answer the following:

Step 1 Result: _____

Step 2 Result: NA

Date of Result: _____

All petitioners must answer the remaining questions:

20. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting them.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

- A. **GROUND ONE:** False imprisonment, illegal search and seizure

Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I WAS APPROACHED BY OFFICER B. MARTINEZ ON NOV. 3 2001 WITHOUT PROBABLE CAUSE WHO ASK ME WHAT I HAVE WRAPPED IN A CLOTH IN MY HAND. I VOLUNTEERED TO SHOW THE OFFICER THAT I HAD A CRACK PIPE.

- B. **GROUND TWO:** INACTIVE OF COUNSEL

Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

MY APPOINTED ATTORNEY A. MATTHEW WHO AT THE TIME WAS AN TRAFFIC JUDGE, WHO REFUSE TO PRODUCE AN MOTION TO SUPPRESS IN A TIMELY MANNER BUT WAITED OVER 5 MONTHS TO PRODUCE THIS MOTION TO SUPPRESS.

~~GROUND ONE CONTINUE~~

1.

OFFICER MARTINEZ START SEARCHING ME AND FOUND 4 TO 5 ROCK COCAINE SO I WAS ARRESTED AND TAKING TO FT. WORTH TARRANT COUNTY JAIL AND THE OFFICER NEVER READ ME MY RIGHTS.

2.

GROUND 2 CONTINUE

DUE TO MY ATTORNEY INCOMPATENT I WAS DENIED A SPEEDY TRIAL AND TO THE FACT THAT THE MOTION TO SUPPRESSED WASN'T FILED IN A TIMELY MANNER I WAS HELD IN CUSTODY AGAINST MY WILL AND WAS CHARGED WITH AN ASSAULT ON A PUBLIC SERVICE. IT WAS THEN AFTER I WAS CONVICTED OF AN ASSAULT ON A PUBLIC SERVICE SENTENCED TO 65 YEARS, ON FEBRUARY 7, 2003 AT THIS TIME IN TRIAL MY ATTORNEY PRODUCED THIS MOTION TO SUPPRESSED AND THE CASE WAS DISMISSED.

Continue ground three

my evaluation was not completed to make a full diagnosis so the DA question of whether I was mentally ill, was never a no or yes. But the matter was ignored by the state. Finally while in prison I was evaluated in the year of 2005 by a FreeWorld psychologist whose report shows I am diagnosed with multiple disorder, depressed mood, posttraumatic stress disorder, polysubstance dependence, and antisocial personality disorder.

C. **GROUND THREE:** Mentally ill incompetent Ignored

Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

During Trial my FreeWorld psychologist who
work at the time where I once attended
the Day Haven Mental health program for
major depressed and awaiting more eval-
uation in 2001. He testify some of my illness.

D. **GROUND FOUR:** Habitual offender Sentences Dispro-
portionate to the Crime.

Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I the petitioner was charged and convicted
of an assault without a weapon on a public
service and was tried as an habitual offend-
ent due to two none Felony cases of none
violence, and was sentenced to 65 years.

21. Relief sought in this petition: Revers or Acquit

22. Case 4:20-cv-01322-P Document 1 Filed 12/11/20 Page 10 of 15 PageID 10
If you previously filed a federal petition attacking the same conviction and such petition was denied or dismissed with prejudice, did you receive permission from the Fifth Circuit to file a second petition, as required by 28 U.S.C. § 2244(b)(3) and (4)? ☐ Yes ☒ No
If your answer is "Yes," give the date on which each petition was filed and the federal court in which it was filed. Also state whether the petition was (a) dismissed without prejudice, (b) dismissed with prejudice, or (c) denied.

NA

If you previously filed a federal petition attacking the same conviction and such petition was denied or dismissed with prejudice, did you receive permission from the Fifth Circuit to file a second petition, as required by 28 U.S.C. § 2244(b)(3) and (4)? ☐ Yes ☒ No

23. Are any of the grounds listed in question 20 above presented for the first time in this petition? ☐ Yes ☒ No

If your answer is "Yes," state briefly what grounds are presented for the first time and give your reasons for not presenting them to any other court, either state or federal.

NA

24. Do you have any petition or appeal now pending (filed and not yet decided) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," identify each type of proceeding that is pending (i.e., direct appeal, art. 11.07 application, or federal habeas petition), the court in which each proceeding is pending, and the date each proceeding was filed.

NA

25. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

- (a) At preliminary hearing: Attorney Matthew K.
(b) At arraignment and plea: attorney matthew K.
(c) At trial: Attorney matthew K.
(d) At sentencing: Attorney matthew K.
(e) On appeal: Attorney A. Pearson
(f) In any post-conviction proceeding: None

NA

Timeliness of Petition:

26. If your judgment of conviction, parole revocation or disciplinary proceeding became final over one year ago, you must explain why the one-year statute of limitations contained in 28 U.S.C. § 2244(d) does not bar your petition.¹

I HAVE AN EA SCORE OF 3.0 AND I LACK THE KNOWLEDGE OF THE STATE AND FEDERAL LAWS. MY TWO ATTORNEY NEVER INFORM ME MY RIGHT TO FILE AN H.C. I ONLY LEARNED IT BY JAILHOUSE LAWYERS WHO TO THIS DAY GAVE ME ALL THE MATERIALS TO FILE, IN WHICH WAS AT LEAST 6 TO 8 YEARS LATER.

¹ The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), as contained in 28 U.S.C. § 2244(d), provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for a Writ of Habeas Corpus was placed in the prison mailing system on

10-15-20 (month, day, year).

Executed (signed) on 10-21-20 (date).

Derrick Webster
Signature of Petitioner (required)

Petitioner's current address: Michael unit 2664 fm 2054
Tennessee Colony, TX 75886

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS
P.O. BOX 750000, STATION 7500, DALLAS, TEXAS 75711

OFFICIAL BUSINESS
STATE OF TEXAS
PENALTY FOR
PRIVATE USE

22 SEP 2020 PM 3 L



U.S. POSTAGE PITNEY BOWES
ZIP 78701 \$ 000.27⁰
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9/2/2020

WEBSTER, DERRICK MAURICE Tr. Ct. No. C-372-W011751-0866501-C WR-76,017-03

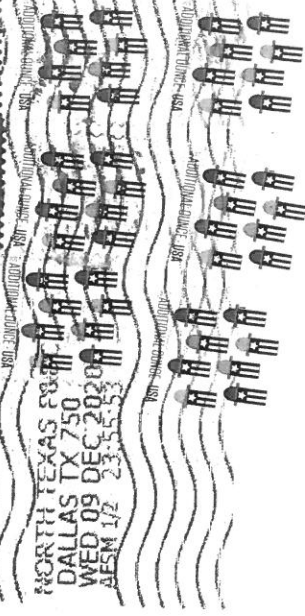
The Court has dismissed without written order this subsequent application for a writ of habeas corpus. TEX. CODE CRIM. PROC. Art. 11.07, Sec. 4(a)-(c).

12B32 Deana Williamson, Clerk

DERRICK MAURICE WEBSTER
MICHAEL UNIT - TDC # 1155256
2664 FM 2054
TENNESSEE COLONY, TX 75886

MIWNAB 75886





Derrick Webster #1155256

Michael unit

2664 Fm 2054

Tennessee Colony, TX 75886

Clerk

U.S. District Court

Northern District of Texas

501 West 10th St. 310

Ft. Worth, TX 76108-3673

CLERK OF DISTRICT COURT

RECEIVED
DEC 11 PM 12:25

CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION
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Case #?
New?